

FIRM / AFFILIATE OFFICES

Boston	New Jersey
Brussels	New York
Chicago	Northern Virginia
Frankfurt	Orange County
Hamburg	Paris
Hong Kong	San Diego
London	San Francisco
Los Angeles	Silicon Valley
Milan	Singapore
Moscow	Tokyo
	Washington, D.C.

August 17, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-B204
Washington, DC 20554

*Re: WT Docket No. 00-193; **EX PARTE***

Dear Ms. Dortch

A number of small and regional wireless carriers recently have outlined in several docketed proceedings their struggle to obtain competitive roaming arrangements with large nationwide carriers – a problem exacerbated by the recent wave of consolidation in the Commercial Mobile Radio Services (“CMRS”) marketplace.¹ Some of these carriers have called for the Commission to refresh the record in the above-referenced proceeding as a prelude to remedying this problem.² The Commission has declared an intention to do so.³ By this letter,

¹ See, e.g., Comments of SouthernLINC Wireless, WT Docket No. 05-63 (filed March 30, 2005); Comments of Great Lakes of Iowa, Inc., WT Docket No. 05-71 (filed March 28, 2005), at 1-2; Comments of Leaco Rural Telephone Cooperative, Inc., WT Docket No. 05-71 (filed March 28, 2005), at 4; Comments in Opposition of Rural Telecommunications Group, Inc., WT Docket No. 05-50 (filed March 9, 2005), at 8-9; Petition to Deny of Lamar County Cellular, WT Docket No. 05-50 (filed March 9, 2005).

² See, e.g., Rural Telecommunications Group, Inc., Petition for Commission Action, WT Docket No. 00-193 (Nov. 1, 2004).

³ See, e.g., Applications of Nextel Communications and Sprint Corporation, WT Docket No. 05-63, *Memorandum Opinion and Order* (rel. Aug. 8, 2005) (“Sprint/Nextel Order”), at ¶ 105 (“The Commission plans to initiate a proceeding to examine whether our rules regarding the roaming requirements applicable to CMRS providers should be modified to take into account current market conditions and developments in technology. This proceeding will afford interested parties an opportunity to comment on a variety of roaming issues, including manual and automatic roaming, technical considerations, and small and rural carrier roaming issues.”); Applications of Western Wireless Corporation and ALLTEL Corporation, WT Docket No. 05-50, *Memorandum Opinion and Order* (rel. July 19, 2005) (“Western/ALLTEL Order”), at ¶ 87 (“[G]iven the broad scope of the concerns raised – many

Leap Wireless International, Inc., on behalf of itself and its affiliated companies (collectively, “Leap”) wishes to lend its voice to those seeking expeditious Commission intervention to impose an automatic roaming obligation -- and attendant roaming non-discrimination requirements -- on all cellular, PCS and ESMR CMRS providers.

For years, Leap’s core services, marketed under the “Cricket” brand, did not include the ability for subscribers to roam. Rather, the Cricket offering was designed to resemble the simplicity and predictability of landline service, with an unlimited supply of minutes for one flat fee while in the local market area. For that reason primarily, but also because there was a multiplicity of nationwide carriers in the CMRS marketplace, Leap years ago in this proceeding urged the Commission to remain on the sidelines with respect to automatic roaming issues.⁴

Times have changed. The CMRS marketplace generally has undergone a wave of tremendous consolidation.⁵ And for its part, Leap, in order to initiate additional valuable services to its historically under-served customer base -- including those customers who need the ability to travel on occasion -- now is expanding its service offerings to provide its customers with roaming capabilities. In so doing, Leap has run head-on into an emerging competitive and policy problem.

Simply put, Leap has experienced difficulty in negotiating reasonable -- or even viable -- terms for roaming contracts. Companies such as Leap are faced with limited choices for roaming partners. This, of course, is due to the increasingly limited number of CMRS spectrum licenses that are available in a given service area, and to the FCC’s (laudable) decision to allow carriers to adopt the air interface of their choosing. Today, for example, there are only two national CDMA carriers and two national GSM carriers -- meaning that in any given market, there are often similarly limited numbers of technologically-compatible carriers for roaming purposes.

Leap believes that permitting a few large carriers unilaterally to set the terms for access to roaming networks threatens the overall level of competition within the CMRS marketplace, potentially stifles the availability of service offerings, and ultimately will harm consumers absent regulatory intervention. For this reason, Leap joins in urging the Commission to freshen the record in this proceeding, and to act promptly to remedy the problem.

of which seem to call for a reevaluation of the Commission’s roaming rules and policies -- they are more appropriately addressed in the context of a rulemaking proceeding. In the near future, the Commission plans to initiate a proceeding to examine whether our rules regarding the roaming requirements applicable to CMRS providers should be modified to take into account current market conditions and developments in technology. This proceeding will afford interested parties an opportunity to comment on a variety of roaming issues, including manual and automatic roaming, technical considerations, and small and rural carrier roaming concerns.”).

⁴ See Comments of Leap Wireless International, Inc., WT Docket No. 00-193 (filed Jan. 5, 2001).

⁵ See, e.g., *Sprint/Nextel Order*; *Western/ALLTEL Order*; Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation, WT Docket 04-70, *Memorandum Opinion and Order* (rel. Oct. 26, 2004).

LATHAM & WATKINS^{LLP}

Very truly yours,

- /s/ -

James H. Barker

Counsel for Leap Wireless International, Inc.

cc: Robert Irving, Esq., Leap
Tim Ostrowski, Leap